

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re:  NICHOLAS M. MARTELLA and, KIERSTEN N. MARTELLA Debtor,  NISSAN MOTOR ACCEPTANCE CORPORATION, Movant,  v.  NICHOLAS M. MARTELLA, KIERSTEN N. MARTELLA, and SCOTT F. WATERMAN, Trustee, Respondents.	Bankruptcy No. 18-17641-amc  Chapter 13  Document No.
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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

AND NOW, comes Movant, Nissan Motor Acceptance Corporation (the “Movant”), by and through its undersigned counsel, Bernstein-Burkley, P.C., and files this Motion for Relief from the Automatic Stay (the “Motion”), representing as follows:

THE PARTIES

1. Respondents, Nicholas M. Martella, Kiersten N. Martella, (“Debtors”), are adult individuals with a place of residence located at 57003 Delaire Landing Road, Philadelphia, PA 19114.
2. Scott F. Waterman, is the duly appointed Chapter 13 Trustee and is currently acting in such capacity.

JURISDICTION AND VENUE

3. This matter is a core proceeding and this Court has jurisdiction pursuant to 28 U.S.C. § 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Movant seeks relief pursuant to 11 U.S.C. § 362(d) and FRBP 4001 and 9014.

FACTUAL BACKGROUND

4. On or about November 16, 2018, Debtors filed a voluntary petition for relief pursuant to Chapter 13 of the Bankruptcy Code.

5. On or about May 9, 2018, Debtors purchased a 2018 Nissan Rogue Sport, VIN# JN1BJ1CR1JW202403, pursuant to a Retail Installment Contract (the “Contract”) with the Movant, a true and correct copy of which is attached hereto as Exhibit A.

6. Movant has a secured interest in the 2018 Nissan Rogue Sport, VIN# JN1BJ1CR1JW202403, as evidenced by the Certificate of Title attached hereto as Exhibit B.

7. The Contract requires monthly payments of \$419.00, which amounts are due on or before the 21st of each month.

8. As of the date of this Motion, Debtors were in default of their payment obligations to Movant in the amount of \$1,249.26. Debtors are currently due for the payment due on November 21, 2020.

9. Debtors’ Chapter 13 Plan states that payments to Movant will be made outside the Plan.

10. The gross balance due on the Contract is \$17,672.33.

11. The N.A.D.A value for the 2018 Nissan Rogue Sport, VIN# JN1BJ1CR1JW202403, is \$15,650.00. A true and correct copy of a printout showing that value is attached hereto as Exhibit C. Therefore although there appears to be some equity, the Debtors are still responsible for making monthly payments to Movant.

12. Movant is entitled to relief from the automatic stay for cause, including the lack of adequate protection, because Debtors have failed to make post-petition payments to Movant. 11 U.S.C. §362(d)(1).

WHEREFORE, Movant, Nissan Motor Acceptance Corporation, respectfully requests that this Honorable Court enter an Order, pursuant to 11 U.S.C. § 362(d), granting Movant relief from stay with respect to the 2018 Nissan Rogue Sport, VIN# JN1BJ1CR1JW202403.

Respectfully submitted,

BERNSTEIN-BURKLEY, P.C.

By: /s/ Keri P. Ebeck  
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